

**JUL 10 2006**

**CATHY A. CATTERSON, CLERK**  
**U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

**JOHNNIE SPUEHLER; JOHN  
SPUEHLER,**

**Plaintiffs - Appellants,**

**V.**

**CARSON CITY SCHOOL DISTRICT;  
KAREN CHANDLER,**

**Defendants - Appellees.**

No. 04-16796

D.C. No. CV-03-00123-HDM

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the District of Nevada  
Howard D. McKibben, District Judge, Presiding

Argued and Submitted June 14, 2006  
San Francisco, California

Before: SCHROEDER, Chief Judge, GRABER, Circuit Judge, and DUFFY<sup>\*\*</sup>,  
District Judge.

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The Honorable Kevin Thomas Duffy, Senior United States District Judge for Southern New York, sitting by designation.

The plaintiffs, John and Johnnie Spuehler, appeal the district court's dismissal of their 42 U.S.C. § 1983 claim against defendants Karen Chandler, a teacher, and the Carson City School District. The claim arises from their son's death in a car collision while a passenger in a vehicle driven by a fellow student from an event.

The plaintiffs argue the defendants deprived their son of his life in violation of substantive due process when they allowed another student to drive him back to school after the event instead of providing a school bus or arranging for other parents to drive Joshua. The district court correctly recognized that there is generally no violation of federal rights in the failure by the state to guard against injury by third parties. See DeShaney v. Winnebago County Dep't of Soc. Servs., 489 U.S. 189, 195 (1989). The state itself must create the danger to the plaintiff. L.W. v. Grubbs, 974 F.2d 119, 120 (9th Cir. 1992). That was not the case here.

Plaintiffs also suggest that violation by the teacher of the State of Nevada's and the School District's transportation policies makes the basis for a federal claim. We assume the defendants violated policies regarding the provision of a bus or other adult supervised transportation. The policies, however, create, at most, a right protected under state, not federal law.

AFFIRMED.